

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re: Kathleen A. Richardson,

Debtor: Chapter 7 Case  
Case No. BKY 04-44478-RJK.

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**NOTICE OF HEARING AND  
MOTION FOR RELIEF FROM STAY**

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TO: The Debtor, Debtor's Attorney, Chapter 7 Trustee, United States Trustee, and the other parties in interest specified in Local Rule 1204(a).

1. **CitiCorp Trust Bank, fsb**, f/k/a Travelers Bank & Trust, fsb (**Movant**), a secured creditor of the Debtor herein, by its undersigned attorney, moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 2:00 o'clock p.m., on November 4, 2004, before the Honorable Robert J. Kressel, in Courtroom 8 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota, 55415, or as soon thereafter as counsel can be heard.

3. Any response to this motion must be filed and delivered not later than October 28, 2004, which is seven (7) days before the time set for the hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than October 25, 2004, which is ten (10) days before the time set for the hearing (including Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT A HEARING.

4. This motion is filed pursuant to Bankruptcy Rule 4001 and Local Rule 9013-2, and Movant seeks relief from the automatic stay of 11 U.S.C. §362 with respect to certain real property owned by the Debtor and subject to Movant's first mortgage lien.

5. The Petition commencing this Chapter 7 Case was filed on August 11, 2004, and the case is now pending in this Court. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §157(a), §1334, 11 U.S.C. §362(d), Bankruptcy Rule 5005, Local Rule 1070-1 and other applicable rules. This proceeding is a core proceeding.



6. By certain mortgage dated August 30, 2002, in the original principal amount of \$131,524.81 (**Mortgage**), Movant acquired a first mortgagee's interest in the following real property (**Property**):

Lot 28, Block 2, Westbrooke Patio Homes.

The Mortgage was filed for record in the office of the Registrar of Titles, in and for Hennepin County, Minnesota, on September 16, 2002, as document number 3602196 upon Certificate of Title No. 1064719.

7. The subject property has a listed market value of \$122,000.00 on the Hennepin County real estate tax records. The total amount of debt secured by the subject property is \$131,892.39, including Movant's mortgage. Hence, Debtor has little or no actual equity in the property.

8. Debtor's four (4) month delinquency under the terms of the Mortgage constitute cause, within the meaning of 11 U.S.C. §362(d)(1), entitling Movant to relief from the automatic stay. Movant does not have, and has not been offered, adequate protection of its interest in the Property.

**WHEREFORE**, Movant, by its undersigned attorney, moves the Court for an order modifying the automatic stay of 11 U.S.C. §362(a) so as to permit Movant to foreclose its Mortgage on the Property and for such other relief as the Court may deem to be just, fair and equitable.

Dated this 8th day of October, 2004.

**PETERSON, FRAM AND BERGMAN**

A Professional Association

BY: /e/ Steven H. Bruns

Steven H. Bruns

Atty. Reg. #14888X

**Attorneys for Movant**

Suite 300, 50 East Fifth Street

St. Paul, Minnesota 55101

Telephone: (651) 291-8955



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: Kathleen A. Richardson,

Debtor: Chapter 7 Case  
Case No. BKY 04-44478-RJK.

**AFFIDAVIT IN SUPPORT OF  
MOTION FOR RELIEF FROM STAY**

STATE OF TEXAS            )  
                                      ) ss.  
COUNTY OF DALLAS        )

I, Laura Phillips, your affiant, being first duly sworn on oath, state as follows:

1. I am an employee of **CitiCorp Trust Bank, fsb**, f/k/a Travelers Bank & Trust, fsb (**Movant**), and I have personal knowledge of the facts stated herein.
2. I make this Affidavit in support of a motion to lift, modify or condition the bankruptcy stay.
3. Debtor is the mortgagor on a mortgage dated August 30, 2002 which covers real property located in Hennepin County and legally described as follows:

Lot 28, Block 2, Westbrooke Patio Homes,  
and which is commonly known as: 1220 Wagon Wheel Road, Hopkins, MN 55343. The mortgage was given to secure a promissory note. Copies of the note and the mortgage are attached hereto as Exhibit A and Exhibit B, respectively, and incorporated herein by this reference.




4. On or about August 11, 2004, Debtor filed a Petition under Chapter 7 of Title 11 U.S. Code in the United States Bankruptcy Court for the District of Minnesota.

5. Debtor has failed to make four (4) payments, resulting in an arrearage of \$3,843.14, including late charges. The total mortgage debt is \$131,892.39, which includes accrued interest through October 6, 2004. Thereafter, interest accrues on the unpaid principal balance at \$35.24 per day.

6. Based upon information and belief, the subject property has a listed market value of \$122,000.00 on the Hennepin County real estate tax records. The total amount of debt secured by the subject property is \$131,892.39, including Movant's mortgage.

7. I have read the Motion in this matter, and it is true to the best of my knowledge, information and belief.

Further, I saith not.

  
\_\_\_\_\_  
Laura Phillips, Assistant Secretary

Subscribed and sworn to before me  
this 7th day of October, 2004.

  
\_\_\_\_\_  
Notary Public





# Disclosure Statement, Note and Security Agreement

Borrower(s) (Name and Mailing address)	Lender (Name, address, city and state)	Account No.
KATHLEEN A RICHARDSON 1220 WAGON WHEEL ROAD HOPKINS MN 55343	TRAVELERS BANK & TRUST, FSB 100 COMMERCE DRIVE NEWARK DE 19713	7344440
		Date of Loan
		08/30/2002

<b>ANNUAL PERCENTAGE RATE</b> The cost of Borrower's credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost Borrower.	<b>Amount Financed</b> The amount of credit provided to Borrower or on Borrower's behalf.	<b>Total of Payments</b> The amount Borrower will have paid after Borrower has made all payments as scheduled.
10.16 %	\$ 280,472.01	\$ 127,371.99	\$ 407,844.00

<b>Payment Schedule:</b>		<b>Security:</b> If checked, Borrower is giving a security interest in: <input checked="" type="checkbox"/> Real Property <input type="checkbox"/> Mobile/Manufactured Home <input type="checkbox"/> Other:  <b>Late Charge:</b> If a payment is more than 15 days late, Borrower will be charged 5.0 % of the amount in default.  <b>Prepayment:</b> If Borrower pays off early, Borrower will not be entitled to a refund of part of the finance charge; and <input checked="" type="checkbox"/> may <input type="checkbox"/> will not have to pay a penalty.  <b>Demand Feature:</b> None.
Number of Payments	Amount of Payments	
When Payments Are Due		
360	\$ 1,132.90	

See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

<b>Additional Information:</b>			
PRINCIPAL \$ 131,524.81	POINTS 3,830.82	BUYDOWN FEE \$ NONE	DATE CHARGES BEGIN 09/05/2002

**Insurance Disclosure:**  
If Borrower grants Lender a security interest as indicated in this document, insurance to protect the Lender's interest in the collateral may be required. If this loan is secured by real property, or mobile/manufactured home, then fire, extended coverage, collision and/or comprehensive casualty insurance is required naming Lender as loss payee, until the loan is fully paid. Additionally, if the property is located in a flood plain, flood insurance will be required. The amount of such insurance must be sufficient to satisfy the unpaid balance of the loan, or be equal to the value of the collateral, whichever is less. Such insurance may be provided through an existing policy or a policy obtained independently and purchased by Borrower. Borrower may obtain such insurance from any insurer that is reasonably acceptable to Lender. If required insurance terminates before the loan is repaid, Borrower promises to obtain acceptable substitute insurance. If Borrower is in default, and Lender demands that Borrower immediately repay the loan in full, Borrower authorizes the insurer providing any required insurance that is financed by Lender in connection with this loan to terminate such policy or coverage, upon request of Lender, and directs that the insurer deliver the premium refund, if any, to the Lender which may at its option apply to the unpaid balance of the loan or return it to Borrower. Any such application of premium refund will not affect the amount or due date of subsequent payments on the loan, but may reduce the number of such payments.

**Payment Waiver Program ("PWP"):**  
Borrower is not required to purchase Payment Waiver protection to obtain credit. Lender's decision to grant credit will not be and is not affected by Borrower's decision to purchase or refuse to purchase optional Payment Waiver Protection.

Payment Waiver is an optional provision of Borrower's loan agreement and is described and defined in the attached Payment Waiver Program Addendum, which is incorporated herein by reference and governs Lender's agreement and Borrower's benefits. In return for a fee billed monthly and added to the scheduled monthly loan payment amount indicated above, and under certain conditions, the Lender will waive the scheduled monthly payment on Borrower's loan agreement and the PWP monthly fee for a period of time upon the occurrence of a Disability or Involuntary Unemployment. The Payment Waiver is not insurance and will not pay the outstanding account balance. Finance Charges accrue on the loan account during any Waiver Period. Borrower should refer to and inquire about the terms and conditions, including, without limitation, the monthly fee, terms, eligibility, exclusions, termination date, waiting period and maximum waiver limit, contained in the attached PWP Addendum.

Coverage will not be provided unless Borrower signs and agrees to pay the applicable monthly fee in addition to the loan payment disclosed above. I/We request Payment Waiver protection as described in the attached PWP Addendum. It is understood that coverage will extend solely to the Borrower named on the PWP Addendum (the Covered "BORROWER").

PWP Monthly Fee: \$	95.85		8/30/02
		Borrower's Signature	Date
		Borrower's Signature	Date

**TERMS:** In this Disclosure Statement, Note and Security Agreement, the word "Borrower" refers to the persons signing below as Borrower, whether one or more. If more than one borrower signs, each will be responsible, individually and together, for all promises made and for repaying the loan in full. The word "Lender" refers to the lender, whose name and address are shown above.

**PROMISE TO PAY:** In return for a loan that Borrower has received, Borrower promises to pay to the order of Lender the Principal amount shown above, plus interest on the unpaid Principal balance from the Date Charges Begin shown above at the agreed rate of 9.7800 % per annum. Lender will compute interest on the unpaid Principal balance on a daily basis from the date charges begin until Borrower repays the loan. If Borrower does not make sufficient or timely payments according to the payment schedule above, Borrower will incur greater interest charges on the loan. On the N/A month anniversary of the Date of Loan shown above, the rate of interest shall decrease to N/A % per annum on the unpaid Principal balance until the balance is paid in full.

Principal and interest shall be payable in consecutive monthly installments in the amounts shown above, except that any appropriate adjustments will be made to the final payment. The payments shall begin on the first payment date shown above, and shall continue on the same date on each succeeding month, until the Principal balance is fully paid unless this loan is subject to a call provision as indicated herein in which event the final payment date may be accelerated. Upon the final payment date or the acceleration thereof, the entire outstanding balance of Principal, interest and all other charges provided for in this Disclosure Statement, Note and Security Agreement shall, including any accrued but unpaid PWP fees(s), be due and payable. Any payment(s) which Lender accepts after the final payment date or the acceleration thereof do not constitute a renewal or extension of this loan unless Lender so determines. Lender, at its option, may collect interest from and after maturity upon the unpaid Principal balance at the rate of interest prevailing under this Disclosure Statement, Note and Security Agreement at maturity. Each payment will be applied first to interest arrearages, computed to the date of payment and the remainder to the balance due (which may include a PWP fee). Each portion of a payment applied to Principal shall be applied first to any recording, appraisal, title insurance and title examination fees, document preparation fees, settlement fees, and other closing fees, with the remainder applied to the PWP monthly fee, if any, and the Principal balance.

Any amount shown above as Points has been paid by Borrower as points and any amount shown above as a Buydown Fee has been paid by a party other than Borrower as a Buydown Fee. These amounts are considered a prepaid charge and are in addition to interest at the indicated rates. All Points or Buydown Fee are earned prior to any other interest on the loan balance. Prepaid Points and/or Buydown Fees are not refundable to Borrower or any other party.

Exhibit A

KAR 8/30



**PREPAYMENT:** Borrower may make a full or partial prepayment of the unpaid Principal balance at any time (check applicable box):

☐ without penalty.

☒ if this loan is secured primarily by a Mortgage or Deed of Trust on residential real property and Borrower prepays this loan in full during the first three (3) years from the Date of Loan, Borrower agrees to pay a prepayment fee, in addition to any accrued interest and charges, calculated on the average balance of the principal obligation outstanding as of the last business day of each month for the prior six (6) months, or such lesser period as shall have elapsed from the Date of Loan as follows:

1. If prepaid in full within one year of the Date of Loan, a fee of 5%.
2. If prepaid in full within two years of the Date of Loan, a fee of 4%.
3. If prepaid in full within three years of the Date of Loan, a fee of 3%.

If prepayment occurs after three (3) years from the Date of Loan, there will be no prepayment fee.

When Borrower makes a prepayment, Borrower will tell Lender in a letter that Borrower is doing so. Lender will use Borrower's prepayments to reduce the amounts of unpaid interest and charges and the amount of principal that Borrower owes under this Note. Partial prepayment will not affect the amount or due date of subsequent scheduled payments on the loan, unless Lender agrees in writing to any such delay or change, but may reduce the number of such payments. Borrower understands if the terms of this paragraph provide for a prepayment penalty, such terms do not apply to a renewal or refinancing of this loan by Lender, nor to the prepayment of this loan from the proceeds of any loan made in the future by Lender to Borrower. No prepayment charge will be collected if the loan is accelerated due to Lender's exercise of any due on sale clause in the Mortgage or Deed of Trust securing this obligation.

*Ken 10/30/02* Borrower acknowledges by initialing here that Borrower has read and understands the provisions as set forth above for whether or not a prepayment fee, or penalty, may be imposed on Borrower's loan.

**SECURITY AGREEMENT:**

☐ A. If this box is checked, this loan is unsecured.

☐ B. If this box is checked, to secure the payment and performance hereof, Borrower gives to Lender a security interest under the Uniform Commercial Code in any property for which a description is completed below and all parts and equipment now or later added to the property and any proceeds of the property, all which will be called "Property". See below for additional terms applicable to this security interest.

1. Mobile/Manufactured Home:

Make	Year/Model	Model No. Or Name	Body Type	Identification Number

2. Other Property:

☒ C. If this box is checked, Borrower's loan is secured by a Deed of Trust or Mortgage of even date on real property which requires Lender's written consent to a sale or transfer of the encumbered real property located at 1220 WAGON WHEEL ROAD HOPKINS MN 55343. See either the Deed of Trust or the Mortgage for terms applicable to Lender's interest in Borrower's real property ("Property").

**OWNERSHIP OF PROPERTY:** Borrower represents that the Property is owned by Borrower free and clear of all liens and encumbrances except those of which Borrower has informed Lender in writing. Prior to any default, Borrower may keep and use the Property at Borrower's own risk, subject to the provisions of the Uniform Commercial Code. If the Property includes a mobile or manufactured home, Borrower will, upon request, deliver the certificate of title, if any, to the home to Lender.

**USE OF PROPERTY:** Borrower will not sell, lease, encumber, or otherwise dispose of the Property without Lender's prior written consent. Borrower will keep the Property at Borrower's address (as shown on page 1) unless Lender has granted permission in writing for the Property to be located elsewhere. The Property will be used only in the state in which Borrower lives. Borrower will not use or permit the use of the Property for hire or for illegal purposes.

**TAXES AND FEES:** Borrower will pay all taxes, assessments, and other fees payable on the Property, this Disclosure Statement, Note and Security Agreement, or the loan. If Borrower fails to pay such amounts, Lender may pay such amounts for Borrower and the amounts paid by Lender will be added to the unpaid balance of the loan.

**REQUIRED INSURANCE:** If Borrower fails to obtain or maintain any required insurance or fails to designate an agent through whom the insurance is to be obtained, Lender may purchase such required insurance for Borrower through an agent of Lender's choice, and the amounts paid by Lender will be added to the unpaid balance of the loan. In any such event, Borrower understands and acknowledges that (1) the insurance company may be affiliated with Lender, (2) Lender's employee(s) may be an agent for the insurance company, (3) such employee(s) is not acting as the agent, broker or fiduciary for Borrower on this loan, but may be the agent of the insurance company, and (4) Lender or the insurance company may realize some benefit from the sale of that insurance.

**FINANCING STATEMENTS:** Borrower will sign all financing statements, continuation statements, security interest filing statements, and similar documents with respect to the Property at Lender's request.

**LATE CHARGE:** If a payment is more than 15 days late, Borrowers agree to pay a late charge of 5.0 % of the amount of the unpaid amount of the installment in default. Lender may, at its option, waive any late charge or portion thereof without waiving its right to require a late charge with regard to any other late payment.

**RETURNED PAYMENT FEE:** Lender may charge Borrower a fee of \$ 10.00 , plus actual expenses incurred, for each check, draft, order of withdrawal or like instrument or payment order given to Lender by Borrower or by Borrower's agent in connection with this loan that is not honored because of insufficient or uncollected funds or because no such account exists.

**LOAN CHARGES:** If a law that applies to this loan and that sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then (i) any such loan charge will be reduced by the amount necessary to reduce the charge to the permitted limit, and (ii) any sums already collected from Borrower that exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under this loan or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge.

**DEFAULT:** Borrower will be in default if:

1. Borrower does not make any scheduled payment on time;
2. Borrower is (or any other person puts Borrower) in bankruptcy, insolvency or receivership;
3. Any of Borrower's creditors attempts by legal process to take and keep any property of Borrower, including the Property securing this loan;
4. Borrower fails to fulfill any promise made under this agreement; or
5. A default occurs under any Real Estate Mortgage or Deed of Trust which secures this loan or under any other mortgage or deed of trust on the real property.

Subject to Borrower's right to any notice of default, right to cure default, and any other applicable laws, if Borrower defaults, Lender may require Borrower to repay the entire unpaid Principal balance, any accrued interest, and all other charges for which Borrower is obligated at once. Lender may accept payments after maturity or after a default without waiving its rights with respect to any subsequent default. Lender's failure to exercise or delay in exercising any of its rights when default occurs does not constitute a waiver of those or any other rights under this agreement. If this debt is referred for collection to an attorney not a salaried employee of Lender, Lender shall be entitled to collect, to the extent permitted by law, all reasonable costs and expenses of collection, including, but not limited, court costs and attorney's fees actually incurred. If Lender obtains a judgment against Borrower, interest shall accrue on the judgment amount at the agreed rate of interest applicable to the loan, unless otherwise stated in the judgment order. Notice to residents of Alaska: Borrower is personally obligated and fully liable for the amount due under the note. Lender has the right to sue on the note and obtain a personal judgment against the Borrower for satisfaction of the amount due under the note, either before or after a judicial foreclosure of the Deed of Trust under AS Section 09.45.170 through .220.

Borrower's Initials: *Ken 8/30/02*



KATHLEEN A RICHARDSON

7344440

08/30/2002

If any insurance coverage is obtained at Lender's office, upon Borrower's default, Borrower hereby gives Lender a power of attorney to cancel part or all of that insurance and to apply any returned premiums to Borrower's unpaid balance. Lender may exercise its option to accelerate during any default by Borrower regardless of any prior forbearance, acceptance of late payments or late charges, or waiver of any rights. If this loan is secured by a mobile home, at least 30 days before Lender takes action to accelerate the unpaid balance or to repossess or sell the mobile home as a result of Borrower's default, Lender will provide a written notice to Borrower concerning the default and Borrower's right to cure the default. Lender is not obligated to give Borrower more than two such notices in a 12-month period.

**EFFECTS OF DEFAULT:** If Borrower defaults, Borrower will deliver the Property to Lender or, upon Lender's demand, assemble the Property and make it available to Lender at a reasonably convenient place. Lender may, without previous notice or demand and without legal process, peacefully enter any place where the Property is located and take possession of it.

The Property may be sold with notice at a private or public sale at a location chosen by Lender. At such a sale, Lender may purchase the Property. The proceeds of the sale, minus the expenses of taking, storing and selling the Property, including attorney's fees, court costs and other collection expenses, and minus the cost of paying off and removing any superior liens or claims on the Property, will be credited to the unpaid balance of Borrower's loan. If the proceeds of the disposition are insufficient to pay off the entire balance, Borrower agrees to pay any remaining balance upon demand. If Borrower has left other property in the repossessed Property, Lender may hold such property temporarily for Borrower without any responsibility or liability for the property.

Notice of the time and place of a public sale or notice of the time after which a private sale will occur is reasonable if mailed to the Borrower's address at least five days before the sale. The notice may be mailed to Borrower's last address shown on Lender's records.

**LAW THAT APPLIES:** Federal law and Delaware law, as applicable, govern this Disclosure Statement, Note and Security Agreement. If any part is unenforceable, this will not make any other part unenforceable. In no event will Borrower be required to pay interest or charges in excess of those permitted by law.

**OTHER RIGHTS:** Lender may accept payments after maturity or after a default without waiving its rights with respect to any subsequent default in payment. Borrower agrees that Lender may extend time for payment after maturity without notice. The terms of this agreement can be waived or changed only in a writing signed by Lender.

Where the context requires, singular words may be read in the plural and plural words in the singular, and references to the masculine gender may be read to apply to the feminine gender.

**OTHER TERMS:** Each Borrower agrees that Lender can change the repayment terms and release any Property securing the loan, or add parties to or release parties from this agreement without notice to any other Borrower and without releasing any other Borrower from his responsibilities. Lender does not have to notify Borrower before instituting suit if the note is not paid, and Lender can sue any or all Borrowers upon the default by any Borrower.

Borrower, endorsers, sureties and guarantors, to the extent permitted by law, severally waive their right to require Lender to demand payment of amounts due, to give notice of amounts that have not been paid, to receive notice of any extensions of time to pay which Lender allows to any Borrower and to require Lender to show particular diligence in bringing suit against anyone responsible for repayment of this loan, and additionally, waive benefit of homestead and exemption laws now in force or later enacted, including stay of execution and condemnation, on any Property securing this loan and waive the benefit of valuation and appraisal.

This Disclosure Statement, Note and Security Agreement shall be the joint and several obligation of all makers, sureties, guarantors and endorsers and shall be binding upon them, their heirs, successors, legal representatives and assigns. Oral agreements or commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt, including promises to extend or renew such debts, are not enforceable. To protect Borrower and Lender from misunderstanding or disappointment, any agreements Borrower and Lender reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between Borrower and Lender, except as Borrower and Lender may later agree in writing to modify it.

If any part of the Disclosure Statement, Note and Security Agreement and, if applicable, the Mortgage or Deed of Trust and accompanying Itemization of Amount Financed is unenforceable, this will not make any other part unenforceable.

**REFINANCING:** Borrower has been advised by Lender that the overall cost of refinancing an existing loan balance may be greater than the cost of keeping the existing loan and obtaining a second loan for any additional funds Borrower wishes to borrow.

(Intentionally left blank)

Borrower's Initials

KAR 8/31

Copy (Customer)

Copy (Ins. Co.)

Page 3



## NOTICE OF ARBITRATION PROVISION

THIS ARBITRATION PROVISION PROVIDES THAT ALL DISPUTES BETWEEN BORROWER AND LENDER, EXCEPT THOSE SPECIFIED BELOW, WILL BE RESOLVED BY MANDATORY, BINDING ARBITRATION. YOU THUS GIVE UP YOUR RIGHT TO GO TO COURT TO ASSERT OR DEFEND YOUR RIGHTS (EXCEPT FOR MATTERS THAT ARE EXCLUDED FROM ARBITRATION AS SPECIFIED BELOW). YOUR RIGHTS WILL BE DETERMINED BY A NEUTRAL ARBITRATOR AND NOT A JUDGE OR JURY. YOU ARE ENTITLED TO A FAIR HEARING, BUT THE ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT.

In consideration of Lender making the extension of credit described above and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, You and We agree that either You or We have an absolute right to demand that any Claim be submitted to an arbitrator in accordance with this Arbitration Provision. If either You or We file a lawsuit, counterclaim, or other action in court, the other party has the absolute right to demand arbitration following the filing of such action.

**Definitions for Arbitration Provision.** As used in this Arbitration Provision ("Provision"), the following definitions will apply:  
 "You" or "Your" means any or all of Borrower(s) who execute this Disclosure Statement, Note and Security Agreement, and their heirs, survivors, assigns, and representatives.  
 "We" or "Us" means the Lender under this Disclosure Statement, Note and Security Agreement, American Health & Life Insurance Company, Triton Insurance Company, and any assignee of Lender, together with all of their respective corporate parents, subsidiaries, affiliates, predecessors, assignees, successors, employees, agents, directors, and officers (whether acting in their corporate or individual capacity).  
 "Credit Transaction" means any one or more past, present, or future extension, application, or inquiry of credit or forbearance of payment such as a loan, retail credit agreement, or otherwise from any of Us to You.  
 "Claim" means any case, controversy, dispute, tort, disagreement, lawsuit, or claim now or hereafter existing between You and Us. A Claim includes, without limitation, anything related to:

- This Provision, its enforceability, and the arbitrability, of any Claim pursuant to this Provision, including but not limited to the scope of this Provision and any defenses to enforcement of this Provision;
- Any Credit Transaction;
- Any past, present, or future insurance, service, or other product that is offered or purchased in connection with a Credit Transaction;
- Any documents or instruments that contain information about any Credit Transaction, insurance, service, or product;
- Any act or omission by any of Us;
- Fraud or misrepresentation, including claims for failing to disclose material facts;
- Any federal or state statute or regulation, or any alleged violation thereof, including without limitation insurance, usury, and lending laws;
- Any party's execution of this Provision and/or willingness to be bound by its terms and provisions; or
- Any dispute about closing, servicing, collecting, or enforcing a Credit Transaction.

**Agreement to Arbitrate Claims.** Upon written request by either party that is submitted according to the applicable rules for arbitration, any Claim except those specified below in this Provision, shall be resolved by binding arbitration in accordance with (i) the Federal Arbitration Act, (ii) the Financial Services Arbitration Rules and Procedures of JAMS/Endispute, Inc. ("Administrator"), and (iii) this Provision, unless we both agree in writing to forgo arbitration. The terms of this Provision shall control any inconsistency between the rules of the Administrator and this Provision. You may obtain a copy of the arbitration rules by calling (800) 448-1660 or by accessing the Administrator's internet site at [www.jamsadr.com/financial\\_rules.asp](http://www.jamsadr.com/financial_rules.asp). At Your request, We will obtain and provide to You copies of the Administrator's rules and other materials including a form Demand for Arbitration. Any party to this Provision may bring an action, including a summary or expedited proceeding, to compel arbitration of any Claim, and/or to stay the litigation of any Claim pending arbitration, in any court having jurisdiction. Such action may be brought at any time, even if a Claim is part of a lawsuit, up until the entry of a final judgment. Pursuant to this Provision, You and We also agree to submit to final, binding arbitration not only all Claims, but also any claim or dispute You or We have against (i) all persons or entities involved with any Credit Transaction or any other matter covered by this Disclosure Statement, Note and Security Agreement, (ii) all persons who signed or execute any document relating to any Credit Transaction or Claim, and (iii) all persons or entities who may be jointly or severally liable to either You or ar of Us regarding any Claim.

**Judgment.** Judgment upon any arbitration award may be entered in any court having jurisdiction. If timely requested by either party, the arbitrator shall provide a brief written statement of the reasons for any award.

**Claims Excluded from Arbitration.** The following types of matters will not be arbitrated. This means that neither one of us can require the other to arbitrate:

- Any action to effect a foreclosure to transfer title to the property being foreclosed, or exercise of extra-judicial or self-help repossession under applicable law; or
- Any matter where all parties collectively (including multiple named parties) seek monetary relief in the aggregate of \$15,000.00 or less in tort, relief, including but not limited to compensatory, statutory and punitive damages; restitution; disgorgement; costs and fees (including attorney fees), or any Claims brought in a small claims court. In the event You attempt to assert any of Your Claims on behalf of a putative class of persons, in violation of other terms in this Provision, the value of Your Claims will, for purposes of this exclusion, be deemed to exceed \$15,000.00. In the event that any party fails to specify the amount being sought for any relief, or any form or component of relief, the amount being sought shall, for purposes of this exclusion, be deemed to exceed \$15,000.00.

However, should either party initiate arbitration, the other party, at its option, may seek injunctive and monetary relief in arbitration. Participating in a lawsuit or seeking enforcement of this section by a court shall not waive the right to arbitrate any other Claim.

**Additional Terms.**

**Administration of Arbitration.** Arbitration shall be administered by the Administrator, but if it is unable or unwilling to administer the arbitration then the American Arbitration Association will administer any arbitration required under this Provision pursuant to its Commercial Arbitration Rules and Expedited Procedures. The arbitrator shall make his or her decision in accordance with the applicable law, and shall be empowered to award any damages or other relief provided for under the applicable law.

**Place of Arbitration.** The arbitration shall be conducted in the county of Your residence, unless all parties agree to another location.

**Appeal.** Either You or We may appeal the arbitrator's award in accordance with the Optional Appeals Procedures of the Administrator, and the award may be subject to judicial review on the grounds stated in 9 U.S.C. § 10.

**No Class Actions/No Joinder of Parties.** You agree that any arbitration proceeding will only consider Your Claims. Claims by or on behalf of other borrowers will not be arbitrated in any proceeding that is considering Your Claims. Because You have agreed to arbitrate all Claims, you may not serve as a class representative or participate as a class member in a putative class action against any party entitled to compel arbitration under this Provision.

**Depositions.** After a demand for arbitration is made, You and We may conduct a limited number of depositions by mutual agreement. Disagreements concerning the taking of depositions will be resolved by the arbitrator.

**Costs.** The cost of any arbitration proceeding shall be divided as follows:

- The party making demand upon the Administrator for arbitration shall pay the initial filing fee up to \$125.00 to the Administrator when demand is made. We will pay any balance.
- We will pay to the Administrator all other costs for the arbitration proceeding up to a maximum of one day (eight hours) of hearings.
- All costs of the arbitration proceeding that exceed one day of hearings will be advanced by the party that initiated the arbitration. To the extent allowed by the applicable arbitration rules and applicable law, the arbitrator may tax or assess costs of the arbitration to any party.
- In the case of an appeal, the appealing party will advance any costs of initiating an appeal. The non-prevailing party shall pay all costs, fees, and expenses of the appeal proceeding and, if applicable, shall reimburse the prevailing party for the cost of filing an appeal.
- Each party shall pay his/her own attorney, expert, and witness fees and expenses, unless otherwise required by law or by other terms of Disclosure Statement, Note and Security Agreement.

**Governing Law.** This Provision is governed by federal law and by the laws of the state where the closing of the Credit Transaction took place only to the extent that such state laws are consistent or compatible with federal law.

Borrower's Initials: *KAR* 8/3

Copy (Ins. Co.)

Page



KATHLEEN A RICHARDSON

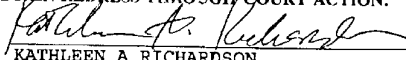
7344440

08/30/2002

**Severability.** If the arbitrator or any court determines that one or more terms of this Provision or the arbitration rules are unenforceable, or would make this Provision unenforceable, only such terms(s) shall be deemed unenforceable and shall be deemed stricken from this Provision, but such determination shall not impair or affect the enforceability of the other terms of this Provision or the arbitration rules.

**Special Acknowledgments.** You understand and acknowledge by signing Your name to this Provision that (i) a court and/or jury will not hear or decide any Claim governed by this Provision, (ii) the funding for Your Credit Transaction will come in whole or in part from sources outside this state, which will constitute interstate commerce within the meaning of the United States Arbitration Act, 9 U.S.C. §§1-9, (iii) discovery in an arbitration proceeding can be much more limited than in a court proceeding, (iv) rights to appeal an arbitration award are very limited, and (v) the rights of the parties hereunder may not be exactly mutual in all respects.

READ THE ABOVE ARBITRATION PROVISION CAREFULLY. IT LIMITS CERTAIN OF YOUR RIGHTS, INCLUDING YOUR RIGHT TO OBTAIN REDRESS THROUGH COURT ACTION.

  
KATHLEEN A RICHARDSON (Seal)  
-Borrower

(Seal)  
-Borrower

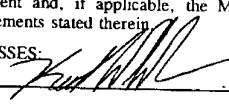
The following notice applies only if this box is checked. ☐

**NOTICE**

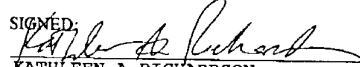
ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

By signing below, Borrower agrees to the terms contained herein, acknowledges receipt of a copy of this Disclosure Statement, Note and Security Agreement and, if applicable, the Mortgage or Deed of Trust and of the accompanying Itemization of Amount Financed, and authorizes the disbursements stated therein.

WITNESSES:



SIGNED:

  
KATHLEEN A RICHARDSON (Seal)  
-Borrower

(Seal)

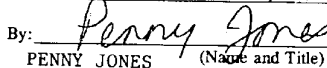
-Borrower

(Seal)

-Borrower

TRAVELERS BANK & TRUST, FSB

By:

  
PENNY JONES (Name and Title) OPERATIONS MANAGER

**COMPLETE FOR LOANS TO LOUISIANA RESIDENTS ONLY:**

For Identification with an Act of Mortgage passed before me

Ne Varietur  
at \_\_\_\_\_ day of \_\_\_\_\_, Louisiana

Notary Public

Notary Public of Parish \_\_\_\_\_, Louisiana

**SECURITY INTEREST OF NONOBLIGOR:** Borrower only is personally liable for payment of the loan. Nonobligor is liable and bound by all other terms, conditions, covenants, and agreements contained in this Disclosure Statement, Note and Security Agreement, including but not limited to the right and power of Lender to repossess and sell the Property securing this loan, in the event of default by Borrower in payment of this loan.

Signature \_\_\_\_\_ (Seal)

Date

Signature \_\_\_\_\_ (Seal)

Date



3602196

3602196

1064719

Michael J. Kung  
 REGISTRAR OF TITLES  
 DEPUTY

SEP 16 2002 3pm

OFFICE OF THE REGISTRAR  
 OF TITLES  
 HENNEPIN COUNTY, MINNESOTA  
 CERTIFIED FILED ON

After recording, please return to:  
 Travelers Bank & Trust, FSB  
 P.O. Box 410  
 Hanover, MD 21076

**MORTGAGE**

RETURN TO: Old Republic Title

02997000-N

**WORK FLOW**

THIS MORTGAGE is made this 30th day of August, 2002, between the Mortgagor,  
 KATHLEEN A. RICHARDSON, A SINGLE PERSON.

(herein "Borrower").

and the Mortgagee, TRAVELERS BANK & TRUST, FSB  
 a federal savings bank chartered under the laws of the United States of America, whose  
 address is 100 COMMERCE DRIVE NEWARK DE 19713 (herein  
 "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$ 131,524.81, which indebtedness is  
 evidenced by Borrower's note dated 08/30/2002 and extensions and renewals thereof (herein "Note"), providing for  
 monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on  
 09/05/2032;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment  
 of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the  
 performance of the covenants and agreements of Borrower herein contained, Borrower does hereby grant and convey to  
 Lender, with power of sale, the following described property located in the County of HENNEPIN  
 State of Minnesota:

THE FOLLOWING DESCRIBED REAL PROPERTY IN LOT 28, BLOCK 2, WESTBROOKE  
 PATIO HOMES, ACCORDING TO THE RECORDED PLAT THEREOF, AND SITUATE IN  
 HENNEPIN COUNTY, MINNESOTA.  
 BEING REGISTERED LAND AS IS EVIDENCED BY CERTIFICATE OF TITLE NO.  
 1064719.  
 TAX ID#25-117-22-31-0022  
 THE ADDRESS IN ILLINOIS WHERE NOTICE OF UNPAID COMMON EXPENSES MAY BE  
 SENT IS TRAVELERS BANK AND TRUST 2155 STONINGTON STE 111  
 HOFFMAN ESTATES, IL 60195  
 A CONDOMINIUM RIDER HAS BEEN EXECUTED ALONG WITH THIS MORTGAGE AND  
 AMENDS AND SUPPLEMENTS THIS MORTGAGE.

Henn Co MRT  
 KAS # 122530  
 9/13/2002

which has the address of 1220 WAGON WHEEL ROAD  
 Minnesota 55343 (herein "Property Address");

HOPKINS Paid \$315.66

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights,  
 appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage;  
 and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are  
 hereinafter referred to as the "Property."

Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and  
 convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that  
 Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to  
 encumbrances of record.



UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.

**2. Funds for Taxes and Insurance.** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

**3. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, and then to the principal of the Note.

**4. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

**5. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

**6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.



**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**9. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

**10. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**11. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

**12. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**13. Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

**14. Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

**15. Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

**16. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

**17. Acceleration; Remedies.** Except as provided in paragraph 16 hereof, upon Borrower's breach of any Mortgage, covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may invoke the power of sale hereby granted and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 17, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall cause a copy of a notice of sale to be served upon the person, if any, in possession of the Property. Lender shall publish a notice of sale and the Property shall be sold at public auction in the manner prescribed by applicable law. Lender or Lender's designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all sums secured by this Mortgage; (b) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable attorneys' fees and costs of title evidence; and (c) the excess, if any, to the person or persons legally entitled thereto.



**18. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to the earlier to occur of (i) sale of the Property pursuant to the power of sale contained in this Mortgage or (ii) entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums constituting the default actually existing under this Mortgage and the Note at the commencement of foreclosure proceedings under this Mortgage; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

**19. Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following sale of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

**20. Release.** Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

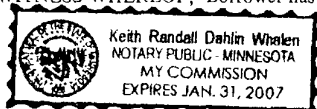
**21. Waiver of Homestead.** Borrower hereby waives all right of homestead exemption in the Property.

**22. Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 22, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 22, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.



Kathleen A. Richardson  
KATHLEEN A. RICHARDSON  
Borrower

STATE OF MINNESOTA, Ramsey County ss:

The foregoing instrument was acknowledged before me this 30TH DAY OF AUGUST, 2002  
(date)

KATHLEEN A. RICHARDSON, A SINGLE PERSON  
(person acknowledging)

My Commission Expires: 1/31/07

Keith Randall Dahlin Whalen  
Notary Public

This instrument was prepared by JANNEE CAMPBELL  
[Name]  
of TRAVELERS BANK AND TRUST  
100 COMMERCE DRIVE NEWARK, DE 19713  
[Address]



## CONDOMINIUM RIDER

THIS CONDOMINIUM RIDER is made this 30th day of August, 2002  
and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the  
"Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to Travelers Bank and Trust (the "Lender")  
of the same date and covering the Property described in the Security Instrument and located at:  
1220 Wagon Wheel Road, Hopkins, MI 55343  
[Property Address]

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project  
known as:

Westbrooke Patio Homes  
[Name of Condominium Project]

(the "Condominium Project"). If the owners association or other entity which acts for the Condominium Project (the  
"Owners Association") holds title to property for the benefit or use of its members or shareholders, the Property also  
includes Borrower's interest in the Owners Association and the uses, proceeds and benefits of Borrower's interest.

**CONDOMINIUM COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower  
and Lender further covenant and agree as follows:

**A. Condominium Obligations.** Borrower shall perform all of Borrower's obligations under the Condominium  
Project's Constituent Documents. The "Constituent Documents" are the: (i) Declaration or any other document which  
creates the Condominium Project; (ii) by-laws; (iii) code of regulations; and (iv) other equivalent documents. Borrower  
shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Hazard Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a  
"master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance  
coverage in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included  
within the term "extended coverage," then:

(i) Lender waives the provision in Uniform Covenant 2 for the monthly payment to Lender of one-twelfth of  
the yearly premium installments for hazard insurance on the Property; and

(ii) Borrower's obligation under Uniform Covenant 5 to maintain hazard insurance coverage on the Property  
is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

Borrower shall give Lender prompt notice of any lapse in required hazard insurance coverage.

In the event of a distribution of hazard insurance proceeds in lieu of restoration or repair following a loss to the  
Property, whether to the unit or to common elements, any proceeds payable to Borrower are hereby assigned and shall be  
paid to Lender for application to the sums secured by the Security Instrument, with any excess paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners  
Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower  
in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the  
common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such  
proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Uniform Covenant 10.

**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written  
consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the Condominium Project, except for abandonment or termination  
required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or  
eminent domain;

(ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of  
Lender;

(iii) termination of professional management and assumption of self-management of the Owners Association;  
or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by  
the Owners Association unacceptable to Lender.

**F. Remedies.** If Borrower does not pay condominium dues and assessments when due, then Lender may pay them.  
Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security  
Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date  
of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting  
payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Condominium

Kathleen St. Richard (Seal)  
Borrower

\_\_\_\_\_  
(Seal)  
Borrower



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re: Kathleen A. Richardson,

Debtor: Chapter 7 Case  
Case No. BKY 04-44478-RJK.

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**MEMORANDUM OF LAW**

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CitiCorp Trust Bank, fsb, f/k/a Travelers Bank & Trust, fsb (**Movant**) submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

**FACTS**

Movant holds a valid, duly perfected mortgage on certain real property owned by Debtor. The Debtor is delinquent with respect to payments due under the mortgage for the months of July 2004 through October 2004 in a total amount of \$3,843.14, including late charges. The total mortgage debt is \$131,892.39, which includes accrued interest through October 6, 2004. Thereafter, interest accrues on the unpaid principal balance at \$35.24 per day.

The subject property has a listed market value of \$122,000.00 on the Hennepin County real estate tax records. The total amount of debt secured by the subject property is \$131,892.39, including Movant's mortgage.

**ARGUMENT**

Under §362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of



an interest in property of such [creditor]." 11 U.S.C. §362(d)(1). Debtor has failed to make payments due under the terms of the mortgage for a period of over four (4) months. Debtor has little or no actual equity in the property; hence, Movant lacks adequate protection in the form of an equity cushion in the property. Furthermore, debtor has otherwise failed to provide Movant with adequate protection of its interest in the property.

Such circumstances constitute cause, within the meaning of §362(d)(1), justifying relief from the stay. In Re Tainan, 48 B.R. 250 (Bkrtcy E.D. Pa. 1985); In Re Quinlan, 12 B.R. 516 (Bkrtcy. W.D. Wis. 1981).

Accordingly, Movant is entitled to an order terminating the stay of 11 U.S.C. §362(a) and authorizing it to foreclose its mortgage on the property.

Dated this 8th day of October, 2004.

**PETERSON, FRAM AND BERGMAN**  
A Professional Association

BY: /s/ Steven H. Bruns  
Steven H. Bruns  
Atty. Reg. #14888X  
Attorneys for Movant  
Suite 300, 50 East Fifth Street  
St. Paul, Minnesota 55101  
Telephone: (651) 291-8955



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re: Kathleen A. Richardson,

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UNSWORN DECLARATION  
FOR PROOF OF SERVICE

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I, Steven H. Bruns, employed by **PETERSON, FRAM AND BERGMAN, P.A.**, attorneys licensed to practice in this court, with an office at Suite 300, 50 East Fifth Street, St. Paul, MN, 55101, declare that on October 8, 2004 I served the annexed: a) Notice of Hearing and Motion for Relief from Stay, b) Affidavit in Support of Motion for Relief from Stay, c) Memorandum of Law, and d) proposed Order for Relief upon each of the parties listed below by mailing to each of them a copy of each thereof, enclosed in an envelope, first class postage prepaid, and by depositing same in the post office at St. Paul, Minnesota, directed to them at their last known addresses, as follows:

United States Trustee  
300 S 4th St # 1015  
Minneapolis MN 55415-1329

Kathleen A. Richardson  
1220 Wagon Wheel Road  
Hopkins, MN 55343

Brian F. Leonard  
Chapter 7 Trustee  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402

Jeffrey Michael Bruzek, Esq.  
443 Old Highway 8, Suite 208  
New Brighton, MN 55112

And I declare, under penalty of perjury, that the foregoing is true and correct.

Signed: /e/ Steven H. Bruns



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re: Kathleen A. Richardson,

Debtor: Chapter 7 Case  
Case No. BKY 04-44478-RJK.

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**ORDER FOR RELIEF FROM AUTOMATIC STAY**

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The above-entitled matter came before the Court on November 4, 2004, on the motion of CitiCorp Trust Bank, fsb, f/k/a Travelers Bank & Trust, fsb (**Movant**) seeking relief from the automatic stay of 11 U.S.C. §362(a). Based upon the statements of counsel and all of the files, records and proceedings herein, the Court now finds that cause exists entitling Movant to the requested relief.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the automatic stay of 11 U.S.C. §362(a) is immediately terminated as to Movant; and, Movant, its successors or assigns, are hereby authorized to foreclose pursuant to Minnesota law that certain Mortgage dated August 30, 2002, filed for record in the office of the Registrar of Titles in and for Hennepin County, Minnesota, on September 16, 2002, and recorded as Document No. 3602196 upon Certificate of Title No. 1064719 and covering real property located in Hennepin County, Minnesota, which is legally described as follows:

Lot 28, Block 2, Westbrooke Patio Homes.

Notwithstanding Fed. R. Bankr. P. 4001(a)(3), this order is effective immediately.

November \_\_\_\_, 2004

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Robert J. Kressel  
United States Bankruptcy Judge